

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicant has amended claims 5, 10 and 24. Claims 11 and 25 have been canceled. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-10 and 12-24 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 112

Claims 5, 10, and 24 stand rejected under 35 U.S.C. 112 as having insufficient antecedent basis for “the service type” limitations. The Applicant appreciates the Examiner’s comments and has amended Claims 5, 10, 24 to correct the antecedent basis problem in each claim.

3.) Claim Rejections – 35 U.S.C. § 103 (a)

Claims 1-10 and 12-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mononen (US 2003/0229595; Cited in PTO-892 Part of Paper No. 20090601) in view of Sawyer (US Patent No. 5828737; same as WO 9716034 cited in IDS) and Balachandran (US Patent No. 6,006,085). The Applicant respectfully traverses the Examiner’s rejection and submits the following remarks for the Examiner’s favorable reconsideration.

The present invention discloses and claims a charging system and method for allowing different charge rates to be applied on a particular data bit transfer session based on the bandwidth availability of a serving wireless communication link. Accordingly, the bandwidth availability for a bit transfer session is dynamically determined for a particular mobile client. A charging logic then receives this bandwidth availability information and applies a particular charging rate for that particular mobile station based on that received information. In that regard, the Examiner incorrect stated that Mononen disclosed the step of “dynamically determining a bandwidth on the wireless communication link available to the bit transfer session for said mobile client”

(Para 69, 70, 75 and 78 of Mononen). The Applicant respectfully disagrees with the Examiner's comments. Nothing in Mononen discloses or anticipates the step of "dynamically determining the bandwidth available to a particular bit transfer session for a particular mobile client." The Mononen instead merely informs the user of a particular cost that may be associated with transferring certain amount of data and allows the user to choose a lesser QoS to lower the total cost. As clearly stated in Para 71 of Mononen, it states "[c]urrent business models of general packet radio service (GPRS) providers suggest that a price is to be charged to a user of a mobile terminal 104 dependent upon the bandwidth required to transmit the content." Accordingly, rather than dynamically determining the available bandwidth for a particular bit transfer session and applying different charging rates in accordance with the present invention, Mononen instead determines the amount of bandwidth that is required to transmit the content requested by the user and informs the user of that total charge. Mononen then further states that if this cost is too high, the user can then select a lower QoS (slower speed) to lower the total cost. As a result, the Applicant respectfully submits that Mononen simply fails to anticipate or disclose the step of dynamically determining the bandwidth available to a particular bit transfer session for a particular mobile client as claimed in independent Claim 1.

The Examiner then correctly stated that "Mononen fails to specifically disclose charging logic applying a particular charging rate for said mobile client based on said received bandwidth information for said data bit transfer session." However, the Examiner then incorrectly applied Sawyer as allegedly disclosing this recited step. In Sawyer, the charging rate doesn't change. In other words, there is no step of applying a particular charging rate based on the bandwidth availability of a particular bit transfer session. Instead, the total amount of actual bandwidth used during a course of communications is metered and then multiplied by the same charging rate to determine the total charges incurred for that communication. Accordingly, nothing in Sawyer discloses or anticipates the step of applying a particular charging rate based on the received bandwidth availability information as currently claimed.

Lastly, with respect to Balachandran, it deals with determining a total number of voice channels available within a particular cell sites and sending out SMS messages to encourage users to make speech calls in order to increase the traffic channel utilizations. However, nothing in Balachandran, independently or in combination, anticipates or teaches the novel step of dynamically determining a bandwidth on the wireless communication link available to the bit transfer session for a mobile client. At best, Balachandran deals with bandwidth availability of voice channels within a cell site. However, as one skilled in the art would understand, when a voice channel is available, it is available for carrying a voice call connection and no differential charging rate needs to be applied while that voice connection is in place. However, when transmitting data over a bit transfer session, even after establishing a data session, the available bandwidth for that particular bit data session can fluctuate due to the mobility of a mobile client, the overall load on the air-interface, air-interference, shadowing, as well as a number of other factors or parameters. These changes negatively impact the performance of the wireless communication link and the available bandwidth thereof. With such changes, the present invention dynamically determines the available bandwidth of the wireless communication link and applies a particular charging rate based on that dynamically determined bandwidth availability information.

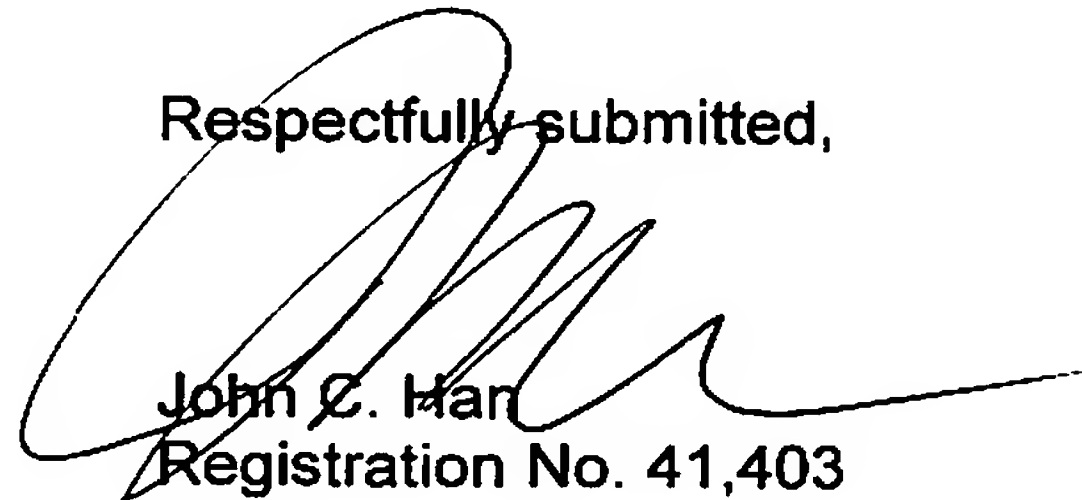
Therefore, the Applicant submits that the cited references, independently or in combination, fail to anticipate or render obvious the presently pending independent Claims and a Notice of Allowance is earnestly requested. All other claims are dependent on now allowable independent claims and recite additional limitations thereto. Accordingly, the Applicant earnest submits that all pending claims are in condition for allowance.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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